IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 1575 of 2005

Between:

B. Kondaiah, S/o. Balaiah,
NARAYANPET BUS DEPT, Mahabubnagar District.

... PETITIONER

AND

1 The Depot Manager, APSRTC

Narayanpet Bus Depot, Mahabubnagar Dist.
2 The Depot Manager, APSRTC, Mahabubnagar bus Depot,

Mahabubnagar.
3 The Divisional Manager, APSRTC, Mahabubnagar Region,

Mahabubnagar.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in imposing the punishment of withholding of annual increment for a period of one year which shall have effect on petitioner's future increments as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and also contrary to the judgments of this Hon'ble Court and Apex Court by setting aside the final order No.P1/1(18)/95-MBNR dt. 25.4.1995 of respondent No.2 herein and consequently direct the respondents to add the increments which were withheld.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court, at the admission stage, made the following:

ORDER:

Alleging that petitioner was absent from his duties from 13-09-1994 to 23-09-1994, a chargesheet was issued to him on 23-09-1994 calling for his explanation. The writ petitioner gave his explanation stating that he was sick during the said period. Without conducting any enquiry, the Disciplinary Authority imposed a penalty of deferment of one annual increment which shall have effect on postponing the petitioner's future increments, by its proceedings dated 25-04-1995, against which petitioner preferred appeal before the third respondent, who rejected the same by order dated 10-02-2003. Questioning the same, the present writ petition is filed.

2. Learned counsel appearing for the writ petitioner contended that imposing a major penalty without conducting any enquiry is illegal and since the incident in question has taken place long back, instead of remitting the matter to the Disciplinary Authority, he prays to add the increments that were withheld.

3. For being absent for his duties, a chargesheet was issued to the petitioner and an explanation was called for. Without considering the explanation offered by the petitioner and without conducting any enquiry, a penalty of deferment of one annual increment, which shall have the effect of postponement of the petitioner's future increments, was imposed on him. There cannot be any dispute that imposing the penalty of deferment of one annual increment having effect of postponement of future increments, is a major penalty. But such a major penalty cannot be imposed without conducting any departmental enquiry. Though it is matter to be remitted back to the Disciplinary Authority for appropriate decision, as the incident in question took place long back, therefore, considering the facts and circumstances of the case, minor penalty can be imposed on the petitioner.

In the result, the writ petition is disposed of modifying the penalty passed by the Disciplinary Authority to that of deferment of one annual increment without

cumulative effect. In the circumstances, no costs.

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K.C. BHANU, J

February 3, 2005

MRR

Copy to:

1 The Depot Manager, APSRTC, Naraynpet, Bus Depot, Mahaboobnagar Dist.

2 The Depot Manager, APSRTC, Mahabubnagar bus Depot,

Mahabubnagar.

2 The Divisional Manager, APSRTC, Mahabubnagar Region,

Mahabubnagar.

3 Two C.D. Copies.